

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOE N. LOUIS,

Petitioner,

v.

RON VAN BOENING,

Respondent.

Case No. C06-1169RSL

ORDER GRANTING
CERTIFICATE OF APPEALABILITY

This matter comes before the Court on petitioner's "Request for Certificate of Appealability." Under the amended version of 28 U.S.C. § 2253(c), a petitioner may not appeal the denial of a habeas corpus petition unless the district court or the Ninth Circuit issues a certificate of appealability identifying the particular issues that may be pursued on appeal. United States v. Asrar, 116 F.3d 1268 (9th Cir. 1997).

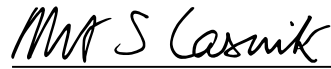
To obtain a certificate of appealability, the petitioner must make a substantial showing of the denial of a constitutional right. "Obviously the petitioner need not show that he should prevail on the merits. He has already failed in that endeavor." Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983). Rather, he must demonstrate that the resolution of the habeas petition is debatable among reasonable jurists or that the issues presented were "adequate to deserve encouragement to proceed further." Slack v. McDaniel, 529 U.S. 473, 483-84 (2000).

Having reviewed the record in this case, including the Report and

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1 Recommendation of the Honorable Mary Alice Theiler, the Court finds that petitioner's first
2 ground for relief, that his convictions for both kidnapping and robbery violated the Double
3 Jeopardy provision of the Constitution, is debatable among reasonable jurists. Petitioner's
4 motion for a certificate of appealability on that ground is, therefore, GRANTED.

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6 Dated this 13th day of November, 2007.

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8 Robert S. Lasnik
9 United States District Judge
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